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August 16, 2012

Mr. Craig Melodia
Assistant Regional Counsel
USEPA – Region 5
77 West Jackson Blvd. (C-29A)
Chicago, IL 60604-3590

Re: NSP Lakefront Site, Ashland, Wisconsin

Dear Mr. Melodia:

When we spoke recently, we told you that we would provide you with certain information with very limited comment or analysis. We assume that whatever information we provide you will be reviewed by your technical staff and consultants in any event and, therefore, do not believe it necessary for us to provide much comment. However, we welcome your questions and look forward to discussing this information with you. Please also consider this letter a supplement to the City's response to the § 104(e) request from the EPA.

We are aware that the excavation for the original construction and expansion of the City wastewater treatment plant on the site were significant factors in the decision by the EPA to issue a special notice letter to the City. We have gathered more information about those activities.

1. Boring logs from the 1951 construction.

For the 1951 construction, the City's contractors did borings at 9 locations at the site. Please see the attached map and boring logs for these activities. Please note that

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there is no reference to coal tar, creosote or any other oil or tar. We believe that it is virtually certain that the boring logs would have noted the discovery of any such material because it was well known by then that tars and oils could interfere with the construction of a sound concrete foundation.

While there is little doubt that there was significant excavation for the construction of the wastewater treatment plant, we have also found no evidence to suggest that any material was placed or dumped in the lake or moved to any other location that makes any difference whatsoever to enlargement of the contaminated area, what needs to be done to remediate the site or otherwise changed the site conditions in a harmful way.

2. Expansion of the plant in 1972-1974.

We have had a chance to review the Daily Logs from the expansion of the wastewater treatment plant in 1972-1974. Copies are attached. The Daily Logs document many excavations. However, there is no description or notation of the discovery of tar or oily substances from excavation. It seems all but certain that the discovery of tar or oily substances would have been important discoveries and specifically noted because of their potential to compromise the quality of the construction, a potential that was well known in the construction industry at the time or to increase the cost due to handling or cleaning of equipment due to oil or tar conditions..

There also is good evidence that unsuitable material discovered during excavation was hauled away from the site. There is direct evidence that the contractor was required to do that. In a handwritten memo dated May 18, 1972, Greeley and Hanson, the City's engineers on the project, wrote to Gridor Construction Company and explained that the plant had been built on the site of an old sawmill and that there was significant wood debris present. The engineers issued a clear directive that this material "must be removed" and "had to be hauled away." We are aware of no evidence that any contractor ignored this order. A copy of the May 18, 1972 memo is attached. .

In short, we are aware of no evidence that either the original construction of the plant in 1951 or its expansion in the early 1970s resulted in any material being placed in the lake, or finding its way to the lake, or being relocated in a manner that made the situation worse. In fact, there is no evidence that any material of any kind was placed into the lake as a result of construction on the wastewater treatment plant. We are aware of no direct physical evidence that any tar or oily substance was discovered during this work.

3. Samples of the water in the basement of the wastewater treatment plant in 2009 detected no VOCs or PAHs.

The wastewater treatment plant was subject to water infiltration in its basement. During the operation of the plant, this water was run through the treatment process and discharged to the lake. At times after the plant closed, water from the basement was discharged to the lake through the plant. In 2009, the City sampled the water from the basement. The samples were collected from the stairway landing leading to the secondary process pump where water had infiltrated the facility. There were no detects of either VOCs or PAHs in these samples (please see enclosed lab results). These are the only relevant test results from the water in the basement. Therefore, the evidence that exists provides no basis to conclude that the City discharged water contaminated with constituents of coal tar at any time from the plant. Moreover, even if the City had done so, it is difficult to understand how those discharges would have adversely impacted the site. Even if they were present, the relevant PAHS would have been in the dissolved phase. If those had been discharged from the plant, it seems overwhelmingly likely that they would have been carried away by wind or waves or otherwise dispersed or remediated by natural forces. We are aware of no evidence that would support a finding that discharges from the plant had any impact here.

4. Claims of transportation by the City of contaminated material.

While there have been theories that the City transported materials throughout the site with a series of pipes and/or trenches, we have found no evidence that the allegations have merit or, more to the point, can be proven. Perhaps a representative example of that is the allegation that the City installed a culvert to drain the "coal tar pit" that existed between the lakeshore and the bluff. The construction drawings for the wastewater treatment plant which show the proposed culvert show a culvert that is almost unquestionably designed to protect the roadway by allowing water to pass under the surface of the road. Such culverts are installed so that the bottom of the culvert is at approximately the surface of the ground on each side of the roadbed. Given the depth of the waste in the coal tar pit relative to the ground level, it is hard to understand how the culvert could be expected to receive any drainage from the coal tar pit. Second, even if the waste material was several feet higher, it is hard to understand how the relatively viscous coal tar would be expected to flow through the culvert.. Finally, of course, there is no evidence that the culvert was *ever* installed. For all these reasons, it is difficult to say much about the City's alleged participation or involvement in transportation of material throughout or off the site because there simply is no evidence that the City did any of these things.

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5. Conclusion

We ask that you review the information that we provide. To the extent that you have any questions or believe the documents should be interpreted differently, please let us discuss those issues.

We believe the information provided here is more evidence that the City is not a responsible party for the site because there is no evidence that the City's activities at the site caused or contributed to a release of hazardous substances. If you agree, we ask that you withdraw the special notice letter to the City. If you have questions or disagree, we would be grateful for an opportunity to discuss your thoughts.

We look forward to discussing this information with you.

Very truly yours,



Richard C. Yde

RCY:kps
Enclosures

Ashland, Wis.

5-18-72 EDT

CP

Frank Marquette 11:15 AM
Gridon Const Co
Minneapolis, Minn.

VRM

WFC

VRB

Wanted to know about things made
at site.

Told him thing information available
to contractor at Ashland
said looked like material at site
not too good. Told him treatment
plant built on site of an old sawmill
as indicated in specific provisions
decayed wood, sawdust, bark etc must
be removed and replaced with base fill
Excavated material couldn't be used for
backfill, benners, etc would have to be
hauled away.

OK that answers his question

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